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CV 13-5812

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JONATHAN COHEN, SANDRA FABARA, :
STEPHEN EBERT, LUIS LAMBOY, :
ESTEBAN DEL VALLE, RODRIGO HENTER DE :
REZENDE, DANIELLE MASTRION, WILLIAM :
TRAMONTOZZI, JR., THOMAS LUCERO, :
AKIKO MIYAKAMI, CHRISTIAN CORTES, :
DUSTIN SPAGNOLA, ALICE MIZRACHI, :
CARLOS GAME, JAMES ROCCO, STEVEN LEW :
and FRANCISCO FERNANDEZ, :
:
Plaintiffs, :
:
-against- :
:
G & M REALTY L.P., 22-50 JACKSON :
AVENUE OWNERS, L.P., 22-52 JACKSON :
AVENUE, LLC, ACD CITIVIEW BUILDINGS, :
LLC and GERALD WOLKOFF, :
:
Defendants. :
----- X

CIVIL ACTION
NO:

BLOCK, J.

AZRACK, M.I.

**TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW
CAUSE BRINGING ON MOTION FOR PRELIMINARY INJUNCTION**

Upon the Complaint herein and the exhibits annexed thereto, upon the moving declarations of Jonathan Cohen and Jeannine Chanes and the Memorandum of Law submitted in support of this Motion, it is hereby:

ORDERED that the Defendants, G & M Realty L.P., 22-50 Jackson Avenue Owners, L.P., 22-52 Jackson Avenue, LLC, ACD Citiview Buildings, LLC and Gerald Wolkoff (collectively, "Defendants") show cause before this Court at Courtroom _____, United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201, on _____, 2013 at _____ o'clock __. M., or as soon thereafter as counsel can be heard, why a preliminary injunction, pursuant to Rule 65, Fed.R.Civ.P., should not be issued enjoining Defendants, their officers, agents, servants, employees, and all persons in active concert and participation with them, pending the final hearing and determination of this action as follows:

1. barring Defendants, their agents, attorneys and employees and all those acting in concert with them, from taking any action or actions that would alter, deface, modify, mutilate or destroy Plaintiffs' works of visual art, as set forth in the Complaint herein, which works of visual art are located on or at certain improved real property owned and/or managed and/or controlled by Defendants on Queens Block 86, Lots 1, 6, 7, 8 and 22, inclusive (collectively "5Pointz"); and
2. barring Defendants, their agents, attorneys and employees and all those acting in concert with them, from taking any action to disconnect, destroy, modify, turn off, unseal, impair or otherwise interfere with any New York City Fire Department equipment or valves without the necessary FDNY

permits, or to disconnect, destroy, modify, turn off, unseal, impair or otherwise interfere with any 5Pointz standpipes, sprinklers or any other fire-fighting or fire-prevention equipment at 5Pointz without the necessary FDNY permits; and

3. barring Defendants, their agents, attorneys and employees and all those acting in concert with them, from denying Plaintiffs and their invitees such access to 5Pointz as had been enjoyed heretofore; and
3. preventing Defendants from interfering with Cohen's easement rights to 5Pointz; and
4. barring Defendants, their agents, attorneys and employees and all those acting in concert with them from interfering with Plaintiffs' ability to exploit their individual works of visual art in and on 5Pointz by denying them or their licensees access thereto; and

ORDERED that pending the hearing and determination of Plaintiffs' motion for preliminary injunction, Defendants, their agents, servants, employees, officers, and all other persons in active concert or participation with them, be and hereby are temporarily restrained and enjoined from, in any manner, either directly or indirectly, committing any of the acts set forth above which are sought to be enjoined by Plaintiffs; and it is further

ORDERED, that Plaintiffs will post an undertaking within five (5) business days of the entry of this Order with the Clerk of the Court, in the form of a bond, in the sum of \$ _____ as security for the payment of such costs and damages as may be incurred or suffered by any party who is subsequently found to be wrongfully enjoined or restrained hereby; and it is further

ORDERED, that service of moving papers shall be made on Defendants on or before _____, 2013 as follows:

- a) With respect to Defendant G & M Realty L.P., by leaving one copy of all papers filed in this action at Defendant G & M Realty L.P.'s place of business at 1 Executive Drive, Edgewood, New York 11717, with a person of suitable age and discretion;
- b) With respect to Defendant 22-50 Jackson Avenue Owners L.P., by leaving one copy of all papers filed in this action at Defendant 22-50 Jackson Avenue Owners L.P.'s place of business at 1 Executive Drive, Edgewood, New York 11717, with a person of suitable age and discretion;
- c) With respect to Defendant 22-52 Jackson Avenue, LLC, by leaving one copy of all papers filed in this action at Defendant 22-52 Jackson Avenue, LLC's place of business on record with the New York Department of State: c/o Alan Hoffman, 85 West Hawthorne Ave., Valley Stream, New York, 11590, with a person of suitable age and discretion, and directing such person to immediately forward said copies to Defendant 22-52 Jackson Avenue, LLC by hand or overnight courier.
- d) With respect to Defendant ACD Citiview Buildings, LLC, by leaving one copy of all papers filed in this action at Defendant ACD Citiview Buildings, LLC's place of business at 1 Executive Drive, Edgewood, New York 11717, with a person of suitable age and

discretion;

- e) With respect to Defendant Gerald Wolkoff, by leaving one copy of all papers filed in this action at Defendant Gerald Wolkoff's place of business at 1 Executive Drive, Edgewood, New York 11717, with a person of suitable age and discretion;

ORDERED, that answering papers be served so as to be received by this Court in Chambers and by Plaintiffs' counsel on or before _____, 2013 at _____ o'clock ____ M.; and it is further

ORDERED, that the reply papers, if any, be served so as to be received by this Court in Chambers and Defendants in the manner indicated above, on or before _____, 2013 at _____ o'clock ____ M.

Dated: _____

USDJ